

Appl. No. 09/212,556
Reply to Office Action of February 12, 2004

REMARKS/ARGUMENTS

The rejection is being maintained for reasons which, applicants submit, are not supported by the documents on which the Examiner relies. Reconsideration in view of the following is therefore requested.

The Examiner refers to the report by the Mayo Clinic. Although the report is not relied upon for the rejection, it is apparently being relied on as evidence that acetaminophen does not affect prostaglandins. Applicants respectfully submit that the Mayo Clinic report does not establish that acetaminophen "does not affect prostaglandins." The report itself is merely a statement and does not include any evidence to show that acetaminophen "does not affect prostaglandins." In contrast, the articles which were submitted in evidence of applicants' position include data showing that acetaminophen inhibited the production of prostaglandins. It is therefore submitted that the evidence of record supports applicants' position that acetaminophen is, or at least was thought to be, a PG inhibitor.

Secondly, the Examiner's statement "assuming arguendo that the state of the art recognized that acetaminophen was a PGI

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(prostaglandin inhibitor) that did not prevent muscle wasting, this lone fact does not destroy the teachings of Ruff with regard to the usefulness of PG inhibitors for the treatment of muscle wasting". Applicants respectfully disagree.

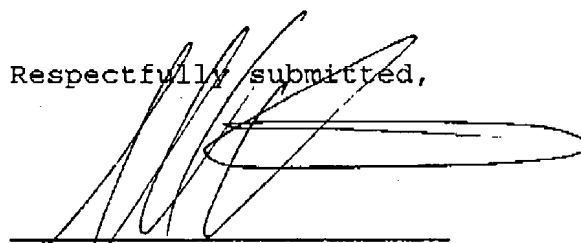
In order to state it, the teachings should be established well before the lone fact. However, only two PG inhibitors are tested in Ruff et al., and only one of the two, indomethacin, is demonstrated to be useful but the other, acetaminophen, is to not be. Assuming arguendo that a significant number of PG inhibitors had been demonstrated to be useful for the treatment of muscle wasting and that it had been a well-established teaching, the Examiner's statement may be reasonable, but this is not the case.

It is therefore submitted that Ruff et al. do not adequately bridge the differences in the prior art, Kimura et al., and the invention as claimed, because of the fact that acetaminophen, that is, or was believed to be, a PGI, that did not prevent muscle wasting.

Reconsideration of the rejection is therefore respectfully requested.

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Respectfully submitted,


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